

ADVANCED DISABILITY ADVOCATES

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JENNIFER FLORES,

Plaintiff,

vs.

JAGAT SINGH D/B/A JACK'S  
MARKET; and DOES 1 through 10  
inclusive,

Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
DENIAL OF CIVIL RIGHTS OF A  
DISABLED PERSON IN  
VIOLATIONS OF AMERICANS  
WITH DISABILITIES;  
CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT; CALIFORNIA'S  
DISABLED PERSONS ACT;  
CALIFORNIA HEALTH & SAFETY  
CODE; NEGLIGENCE

Plaintiff JENNIFER FLORES ("Plaintiff") complains of Defendants JAGAT  
SINGH D/B/A JACK'S MARKET; and DOES 1 through 10 inclusive ("Defendants")  
and alleges as follows:

**PARTIES**

1  
2 1. Plaintiff is a California resident with a physical disability. Plaintiff is  
3 substantially limited in her ability to walk. Plaintiff requires the use of a wheelchair at all  
4 times when traveling in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for JACK'S MARKET  
7 ("Business") located at or about 2811 E. Cesar E. Chavez Ave., Los Angeles, California.

8 3. The true names and capacities, whether individual, corporate, associate or  
9 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
10 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
11 Court to amend this Complaint when the true names and capacities have been  
12 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such  
13 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
14 Plaintiff for the acts herein alleged.

15 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
16 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
17 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
18 the things alleged herein was acting with the knowledge and consent of the other  
19 Defendants and within the course and scope of such agency or employment relationship.

20 5. Whenever and wherever reference is made in this Complaint to any act or  
21 failure to act by a defendant or Defendants, such allegations and references shall also be  
22 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
23 and severally.

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
26 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
27 *seq.*)  
28

1           7. Pursuant to pendant jurisdiction, attendant and related causes of action,  
2 arising from the same nucleus of operating facts, are also brought under California law,  
3 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,  
4 54, 54., 54.3 and 55.

5           8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

6           9. Venue is proper in this court pursuant to 28 USC §1391(b). The real  
7 property which is the subject of this action is located in this district, in Los Angeles, Los  
8 Angeles County, California, and that all actions complained of herein take place in this  
9 district.

10                                   **FACTUAL ALLEGATIONS**

11           10. On or about November 8, 2017, Plaintiff went to the Business. On or about  
12 December 12, 2017, Plaintiff went to the Business again.

13           11. The Business is a grocery business establishment, open to the public, a place  
14 of public accommodation and affects commerce through its operation.

15           12. While attempting to enter the Business during each visit, Plaintiff personally  
16 encountered a number of barriers that interfered with her ability to use and enjoy the  
17 goods, services, privileges, and accommodations offered at the Business.

18           13. To the extent of Plaintiff's personal knowledge, the barriers at the Business  
19 included, but were not limited to, the following:

- 20           a. Defendants failed to comply with the federal and state standards for  
21 the parking space designated for persons with disabilities. Defendants  
22 failed to provide the parking space identification sign with the  
23 International Symbol of Accessibility.
- 24           b. Defendants failed to comply with the federal and state standards for  
25 the parking space designated for persons with disabilities. Defendants  
26 failed to post required signage such as "Unauthorized Parking."  
27  
28

- 1 c. Defendant failed to maintain the parking space designated for persons  
2 with disabilities to comply with the federal and state standards.  
3 Defendants failed to provide the access aisles with level surface  
4 slopes.
- 5 d. Defendants failed to maintain the parking space designated for  
6 persons with disabilities to comply with the federal and state  
7 standards. Defendants failed to mark the space with the International  
8 Symbol of Accessibility.

9 14. These barriers and conditions denied Plaintiff the full and equal access to the  
10 Business and caused her difficulty and frustration. Plaintiff lives about 3 miles away  
11 from the Business. Plaintiff wishes to return and patronize the Business, however,  
12 Plaintiff is deterred from visiting the Business because her knowledge of these violations  
13 prevents her from returning until the barriers are removed. The Business is conveniently  
14 located and Plaintiff would like to return.

15 15. Based on the violations, Plaintiff alleges, on information and belief, that  
16 there are additional barriers to accessibility at the Business after further site inspection.  
17 Plaintiff seeks to have all barriers related to her disability remedied. *See Doran v. 7-*  
18 *Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

19 16. In addition, Plaintiff alleges, on information and belief, that Defendants  
20 knew that particular barriers render the Business inaccessible, violate state and federal  
21 law, and interfere with access for the physically disabled.

22 17. At all relevant times, Defendants had and still have control and dominion  
23 over the conditions at this location and had and still have the financial resources to  
24 remove these barriers without much difficulty or expenses to make the Business  
25 accessible to the physically disabled in compliance with ADDAG and Title 24  
26 regulations. Defendants have not removed such barriers and have not modified the  
27 Business to conform to accessibility regulations.

**FIRST CAUSE OF ACTION**

**VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

18. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation. *See* 42 U.S.C. § 12182(a).

20. Discrimination, *inter alia*, includes:

- a. A failure to make reasonable modification in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden. 42 U.S.C. § 12182(b)(2)(A)(iii).
- c. A failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an

establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

- d. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path or travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope. 42 U.S.C. § 12183(a)(2).

21. Where parking spaces are provided, accessible parking spaces shall be provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall be van parking space. 2010 ADA Standards § 208.2.4.

22. Under the ADA, the method and color of marking are to be addressed by State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California Building Code (“CBC”), the parking space identification signs shall include the International Symbol of Accessibility. Parking identification signs shall be reflectorized with a minimum area of 70 square inches. Additional language or an additional sign below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A parking space identification sign shall be permanently posted immediately adjacent and

1 visible from each parking space, shall be located with its centerline a maximum of 12  
2 inches from the centerline of the parking space and may be posted on a wall at the  
3 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

4 23. Moreover, an additional sign shall be posted either in a conspicuous place at  
5 each entrance to an off-street parking facility or immediately adjacent to on-site  
6 accessible parking and visible from each parking space. The additional sign shall not be  
7 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in  
8 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in  
9 designated accessible spaces not displaying distinguishing placards or special license  
10 plates issued for persons with disabilities will be towed always at the owner’s expense...”  
11 *See* CBC § 11B-502.8, *et seq.*

12 24. Here, Defendants failed to provide the parking space identification sign with  
13 the International Symbol of Accessibility. The signs were covered by stickers.  
14 Moreover, Defendants failed to provide the additional sign with the specific languages  
15 stating “Unauthorized vehicles parked in designated accessible spaces not displaying  
16 distinguishing placards or special license plates issued for persons with disabilities will  
17 be towed always at the owner’s expense...”

18 25. The surface of each accessible car and van space shall have surface  
19 identification complying with either of the following options: The outline of a profile  
20 view of a wheel chair with occupant in white on a blue background a minimum 36” wide  
21 by 36” high (914 mm x 914 mm). The centerline of the profile view shall be a maximum  
22 of 6 inches (152 mm) from the centerline of the parking space, its sides parallel to the  
23 length of the parking space and its lower side or corner aligned with the end of the  
24 parking space length or by outlining or painting the parking space in blue and outlining  
25 on the ground in white or a suitable contrasting color a profile view of a wheel chair with  
26 occupant. *See* CBC § 11B-502.6.4, *et seq.*



1           26. Here, Defendants failed to paint the International Symbol of Accessibility on  
2 the surface as required.

3           27. Under the 1991 Standards, parking spaces and access aisles must be level  
4 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.  
5 Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50  
6 (2%) in all directions. 1991 Standards § 4.6.3. Under the 2010 Standards, access aisles  
7 shall be at the same level as the parking spaces they serve. Changes in level are not  
8 permitted. 2010 Standards § 502.4. “Access aisles are required to be nearly level in all  
9 directions to provide a surface for transfer to and from vehicles.” 2010 Standards § 502.4  
10 Advisory. *Id.* No more than a 1:48 slope is permitted. 2010 Standards § 502.4.

11           28. Here, Defendants failed to provide the access aisles that were level with the  
12 parking spaces.

13           29. A public accommodation shall maintain in operable working condition those  
14 features of facilities and equipment that are required to be readily accessible to and usable  
15 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

16           30. By failing to maintain the facility to be readily accessible and usable by  
17 Plaintiff, Defendants are in violation of Plaintiff’s rights under the ADA and its related  
18 regulations.

19           31. The Business has denied and continues to deny full and equal access to  
20 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
21 discriminated against due to the lack of accessible facilities, and therefore, seeks  
22 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
23 by individuals with disabilities.

24                           **SECOND CAUSE OF ACTION**

25                           **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

26           32. Plaintiff incorporates by reference each of the allegations in all prior  
27 paragraphs in this complaint.  
28





1           39. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
2 entitled to full and equal access, as other members of the general public, to  
3 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
4 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,  
5 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
6 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
7 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
8 places of public accommodations, amusement, or resort, and other places in which the  
9 general public is invited, subject only to the conditions and limitations established by  
10 law, or state or federal regulation, and applicable alike to all persons.

11           40. California Civil Code § 54.3(a) states, “Any person or persons, firm or  
12 corporation who denies or interferes with admittance to or enjoyment of public facilities  
13 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
14 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
15 the actual damages, and any amount as may be determined by a jury, or a court sitting  
16 without a jury, up to a maximum of three times the amount of actual damages but in no  
17 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be  
18 determined by the court in addition thereto, suffered by any person denied the rights  
19 provided in Section 54, 54.1, and 54.2.

20           41. California Civil Code § 54(d) specifies, “a violation of the right of an  
21 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
22 constitute a violation of this section, and nothing in this section shall be construed to limit  
23 the access of any person in violation of that act.

24           42. The actions and omissions of Defendants alleged herein constitute a denial  
25 of full and equal accommodation, advantages, and facilities by physically disabled  
26 persons within the meaning of California Civil Code § 54. Defendants have  
27 discriminated against Plaintiff in violation of California Civil Code § 54.  
28

1           43. The violations of the California Disabled Persons Act caused Plaintiff to  
2 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
3 statutory damages as specified in California Civil Code §55.56(a)-(c).

4                           **FOURTH CAUSE OF ACTION**

5                           **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

6           44. Plaintiff incorporates by reference each of the allegations in all prior  
7 paragraphs in this complaint.

8           45. Plaintiff and other similar physically disabled persons who require the use of  
9 a wheelchair are unable to use public facilities on a “full and equal” basis unless each  
10 such facility is in compliance with the provisions of California Health & Safety Code §  
11 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
12 provisions of California Health & Safety Code § 19955 et seq.

13           46. The purpose of California Health & Safety Code § 1995 et seq. is to ensure  
14 that public accommodations or facilities constructed in this state with private funds  
15 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of  
16 Title 1 of the Government Code. The code relating to such public accommodations also  
17 require that “when sanitary facilities are made available for the public, clients, or  
18 employees in these stations, centers, or buildings, they shall be made available for  
19 persons with disabilities.

20           47. Title II of the ADA holds as a “general rule” that no individual shall be  
21 discriminated against on the basis of disability in the full and equal enjoyment of goods  
22 (or use), services, facilities, privileges, and accommodations offered by any person who  
23 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
24 Further, each and every violation of the ADA also constitutes a separate and distinct  
25 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
26 award of damages and injunctive relief pursuant to California law, including but not  
27 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

**FIFTH CAUSE OF ACTION**  
**NEGLIGENCE**

48. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

49. Defendants have a general duty and a duty under the ADA, Unruh Civil Rights Act and California Disabled Persons Act to provide safe and accessible facilities to the Plaintiff.

50. Defendants breached their duty of care by violating the provisions of ADA, Unruh Civil Rights Act and California Disabled Persons Act.

51. As a direct and proximate result of Defendants' negligent conduct, Plaintiff has suffered damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;

2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;

3. Award of all reasonable restitution for Defendants' unfair competition practices;

4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;

5. Prejudgment interest pursuant to California Civil Code § 3291; and

6. Such other and further relief as the Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: April 28, 2018

ADVANCED DISABILITY ADVOCATES

By: /s/ Kevin Hong  
Kevin Hong, Esq.  
Attorneys for Plaintiff